

RICH MICHAELSON MAGALIFF, LLP  
335 Madison Avenue, 9<sup>th</sup> Floor  
New York, NY 10017  
646.453.7851  
Robert N. Michaelson

Return Date and Time:  
November 8, 2018 at 10:00 AM  
Objection Deadline:  
November 1, 2018 at 5:00 PM

*Attorneys for Plaintiff The Official Committee of Unsecured  
Creditors on behalf of the bankruptcy estate of THE  
GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.,*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

	X
In re:	:
THE GREAT ATLANTIC & PACIFIC TEA	:
COMPANY, INC., <i>et al.</i>	:
Debtors.	:
	X
The Official Committee of Unsecured Creditors on	:
behalf of the bankruptcy estate of THE GREAT	:
ATLANTIC & PACIFIC TEA COMPANY, INC.,	:
<i>et al.</i>	:
Plaintiff,	:
v.	:
McKESSON CORPORATION,	:
Defendant.	:
	X
The Official Committee of Unsecured Creditors on	:
behalf of the bankruptcy estate of THE GREAT	:
ATLANTIC & PACIFIC TEA COMPANY, INC.,	:
<i>et al.</i>	:
Plaintiff,	:
v.	:
McKESSON PHARMACY SYSTEMS LLC,	:
Defendant.	:
	X

-----x  
The Official Committee of Unsecured Creditors on :  
behalf of the bankruptcy estate of THE GREAT :  
ATLANTIC & PACIFIC TEA COMPANY, INC., :  
*et al.* : Adv. Proc. No. 17-08266 (RDD)  
Plaintiff, :  
: v. :  
: :  
McKESSON SPECIALTY DISTRIBUTION LLC, :  
: :  
Defendant. :  
-----x

**MOTION TO COMPEL MEDIATION PURSUANT TO PARAGRAPH 1.1 OF THE  
UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF  
NEW YORK'S MEDIATION PROCEDURES**

The Official Committee of Unsecured Creditors on behalf of the bankruptcy estate of the Great Atlantic & Pacific Tea Company, Inc. ("A&P"), by its undersigned counsel, hereby moves for an order, pursuant to paragraph 1.1 of the Mediation Procedures (the "Mediation Procedures") of the United States Bankruptcy Court for the Southern District of New York, directing mediation in the above-captioned adversary proceedings (the "Adversary Proceedings"). In support of this motion, A&P makes the following representations.

1. The Adversary Proceedings were commenced on July 13, 2017, with filing of separate summonses and complaints (the "Complaints").
2. The defendants (the "Defendants") in the Adversary Proceedings are all affiliates and represented by common counsel.
3. The Complaints each seek, pursuant to 11 U.S.C. §§ 547 and 550, the recovery and turnover of preferential transfers from A&P to the Defendants in the 90 day period immediately preceding the filing of A&P's chapter 11 petition for relief on July 19, 2015.
4. Answers to the Complaints were served and filed and parties have engaged in document discovery.

5. The Mediation Procedures provide that “[t]he Court may order assignment of a matter to mediation upon its own motion, or upon a motion by any party in interest or the U.S. Trustee.”

6. A&P has several times asked the Defendants, through their counsel, to engage in mediation or direct settlement discussions in order resolve the Adversary Proceedings. Unfortunately, those requests were all denied or, more often, ignored.

7. A&P believes that an effort to mediate a resolution of the Adversary Proceedings is both advisable and appropriate because the legal and factual issues in each of them is circumscribed and known and, therefore, the possibility that mediation will be successful is significant. A successful mediation will benefit all parties by reducing the cost and uncertainty of continued litigation and will preserve judicial resources.

**WHEREFORE**, A&P requests entry of an order directing A&P and the Defendants to engage in good faith mediation to resolve the Adversary Proceedings and that such mediation commence no later than February 1, 2019, with cost of such mediation being shared equally among A&P and the Defendants.

Dated: October 18, 2018

RICH MICHAELSON MAGALIFF, LLP

*Counsel for Plaintiff The Official Committee of Unsecured Creditors on behalf of the bankruptcy estate of THE GREAT ATLANTIC & PACIFIC TEA COMPANY, INC.,*

By: /s/ Robert N. Michaelson  
Robert N. Michaelson  
335 Madison Avenue, 9<sup>th</sup> Floor  
New York, New York 10017  
646.453.7851  
rmichaelson@r3mlaw.com